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SUMMARY RECORD OF THE 38th MEETING

Chairman: Mr. KUKAN (Slovakia)

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The meeting was called to order at 10.30 a.m.

AGENDA ITEM 114: HUMAN RIGHTS QUESTIONS (continued)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (continued) (A/48/40, 44 and Add.1, 280, 471, 507, 508 and Corr.1, 520, 556 and 560)

1. Mr. SHARP (Australia) recalled that the body of international human rights instruments and the committees that monitored their implementation formed a cornerstone of the United Nations human rights machinery and of international human rights endeavours. Accordingly, concrete steps had been taken the past year to enhance the effectiveness of the human rights treaty system, in particular when the General Assembly had decided to fund the Committee against Torture and the Committee on the Elimination of Racial Discrimination from the regular budget. Since, however, that decision would not take effect until two thirds of the States parties to those two Conventions had given written approval, he urged all States parties to ratify the amendments in question as soon as possible. It should be borne in mind that until such ratification, they remained obligated to continue to pay their assessed contributions under the relevant Conventions.

2. The time had come to consider more fundamental changes to the human rights treaty system by making it more effective, relieving the reporting burden on States parties and giving the Centre for Human Rights adequate means to meet the escalating demands on its services. He drew the Committee's attention to the interim report on the updated study by Mr. Philip Alston (A/CONF.157/PC/62/Add.11/Rev.1) of his own original study on long-term approaches to enhancing the effective operation of bodies established under United Nations human rights instruments. The independent expert was expected to submit his final report to the Commission on Human Rights at its fiftieth session in February 1994.

3. In his interim report, the independent expert gave a comprehensive overview of the shortcomings of the treaty system and proposed a series of specific reforms whose consideration, in the view of his delegation, could lead to the elaboration of a longer-term strategy.

4. The first point suggested was the goal of universal acceptance of the major international human rights instruments. The independent expert had recommended considering the six core instruments (the two International Covenants on human rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Elimination of Racial Discrimination, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child) as the basis of the human rights programme; stressing the desirability of speedy universal ratification of the two Covenants, giving particular attention to the specific needs and problems of States with a population of less than 2 million which had not yet ratified either Covenant; and setting the year 2000 as a target date for universality.

(Mr. Sharp, Australia)

5. A second issue would be the highlighting of the essentially catalytic role of the treaty bodies which should ideally be to monitor the domestic monitors. The participation of non-governmental organizations and national institutions in the preparation and dissemination of reports should therefore be encouraged.

6. Thirdly, the chronically high level of overdue reports should be reduced. To that end, advisory services and technical assistance could be provided to States parties whose reports were overdue; the Committees could, even in the absence of a report, schedule the situation in non-reporting States for consideration, a strategy which Australia welcomed.

7. Fourthly, it would be helpful not to require States parties to report on the same issue under several different instruments, including the International Labour Organization (ILO) Conventions. Each State party could be encouraged to identify the instances in which cross-referencing could be used in preparing its reports. Each State could, in addition, designate an administrative unit to coordinate the preparation of all reports to treaty bodies. The treaty bodies could coordinate with ILO to determine any duplication. Lastly, Governments could be encouraged to produce a single "global" report to be submitted to all relevant treaty bodies and the requirement of comprehensive periodic reports could be replaced with specifically tailored reports.

8. It should be noted that the financial implications of acceding to the major human rights instruments (and therefore accepting the reporting obligations) were considerable. The proposals of the independent expert, if implemented, would significantly facilitate the task of the treaty bodies and of States parties by allowing the States to prepare, at lower cost, comprehensive and relevant reports capable of sustaining scrutiny.

9. In the meantime, the Committees themselves would function more effectively if some simple reforms were introduced. All the Committees could, for instance, adopt uniform practices and standard terminology that would make the reporting process more transparent and less complex. All the Committees could also give States more time to respond by providing advance notice of the list of questions. Having itself experienced the difficulty of answering up to 100 questions within the space of one day, Australia believed that such a reform would promote a more effective dialogue between the States parties and the Committees. In order to achieve the goal of a treaty system and a reporting process that allowed both the international community and the citizens of States parties to monitor more effectively the implementation by Governments of their substantive obligations under the major human rights instruments, a spirit of cooperation and dialogue must be established.

10. Mr. IM (Republic of Korea) welcomed the fact that the World Conference on Human Rights had made the improvement of human rights monitoring one of the major aspects of its programme of action. His delegation fully endorsed the various recommendations of the programme of action.

11. The Vienna Conference had set the universal ratification of the basic international human rights instruments as one of the principal goals to be

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achieved by the international community. While over 120 States had become parties to the basic treaties, like the Convention on the Elimination of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, the level of ratification of other instruments remained unsatisfactory. Given the fact that universal application of human rights could be legally guaranteed only when all Governments had incorporated the international standards of those instruments into their domestic legislation, it was imperative for all nations to ratify those instruments as soon as possible, especially the two Covenants. The Republic of Korea welcomed the Secretary-General's intention to enter into a dialogue with Member States in order to determine obstacles to ratification.

12. The effectiveness of human rights instruments could be enhanced if States parties submitted timely reports to the treaty bodies; the preparation of such reports gave them an opportunity both to review their national mechanisms for the promotion and protection of basic human rights and to initiate a dialogue with the treaty body concerned. In so doing, States parties often gained a better understanding of the instrument in question; that could lead to the withdrawal of some of their reservations. The Republic of Korea therefore urged those States parties which had not submitted their reports on schedule to meet their treaty obligations without further delay; it advised them to seek assistance, where necessary, from the Centre for Human Rights.

13. His delegation wholeheartedly endorsed the recommendations of the Vienna Conference for simplifying the drafting of reports, for instance, by coordinating the requirements and guidelines under the respective conventions. It supported the suggestion that one comprehensive report should be submitted, rather than several, and hoped that a follow-up procedure would be established so that the measures taken by States parties in response to the views or decisions of the treaty bodies could be monitored.

14. In view of the huge effort which States parties were required to make in drafting reports, the substantial backlog in the consideration of such reports by the treaty bodies was regrettable. The situation should be rectified immediately through the provision of increased resources to those bodies.

15. Following the decision by the General Assembly, at its forty-seventh session, to amend the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Secretary-General had included additional resources for the financing of the two committees established under those Conventions in his budget proposals for the biennium 1994-1995. As it was essential for the amendments to be ratified as soon as possible, his delegation called upon States parties and the Secretariat to give urgent attention to the matter.

(Mr. Im, Republic of Korea)

16. Lastly, his delegation emphasized the importance of the role of non-governmental organizations and individuals in the implementation of human rights instruments. More than 800 non-governmental organizations had participated in the Vienna Conference; that was a positive sign for the universal realization of human rights. The United Nations should facilitate the work of such organizations by providing them with easier access to the requisite information.

17. His country had acceded to most of the major human rights instruments and was preparing to accede to the Convention against Torture.

18. Ms. XUE Hanqin (China) said that the human rights monitoring mechanisms constituted an effective means of implementing the relevant instruments. The State reporting system had made for more effective implementation by States parties of the provisions of the conventions and had improved the human rights situation overall, thus enhancing the social and economic development of the States concerned.

19. China appreciated and had always supported the Organization's efforts to promote human rights and fundamental freedoms in accordance with the purposes and principles of the Charter of the United Nations. China had participated actively in the drafting of a number of international human rights instruments. In recent years, with the rapid progress in its reforms and economic development, China had made remarkable achievements in the improvement and promotion of basic human rights. Since 1980, it had signed, ratified or acceded to a number of international human rights conventions, and had taken steps to adapt its national legislation in order to meet its treaty obligations.

20. With regard to the implementation of the Convention on the Rights of the Child, she said that, as children were the most precious resource of society, the manner in which children were brought up, educated and protected would determine society's future development. The protection of children's rights was therefore a significant aspect of the international protection of human rights; the conclusion of the Convention on the Rights of the Child, and its acceptance by over 100 countries, bore witness to that.

21. Her Government attached great importance to the well-being of children and to the protection of their rights and interests. China had taken an active part in the drafting of the Convention and had become a party to it on 29 December 1991. One third of the Chinese population was under 18 years of age. Under article 46 of the Constitution, the State must promote the overall development - moral, intellectual and physical - of children and youth. In order to implement that provision, China had adopted a series of laws and regulations, and programmes for children had been integrated into national economic and social development plans.

22. The State Council had promulgated China's development programme for children in the 1990s in accordance with the World Declaration on the Survival, Protection and Development of Children and the Plan of Action for implementing that Declaration. Since then, 26 provinces, autonomous regions or

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municipalities administered directly by the Government had adopted their own action programmes. The Council's Commission on Women and Children would soon set up a monitoring group to follow up and assess activities relating to the protection of women and children and to the implementation of the said programme.

23. In the underdeveloped regions of China, providing children with health care and education remained difficult. Among the solutions developed by the competent authorities was "Project Hope", carried out by a non-governmental organization which promoted primary education in poor areas and which had elicited an enthusiastic response across the country. The Government departments concerned were preparing an initial report, to be submitted to the Committee on the Rights of the Child, which would provide details on the implementation of the Convention in China.

24. The question of the protection of children in armed conflict and living in other exceptionally difficult conditions, had been referred to the Third Committee for consideration. Her delegation agreed that national measures were no longer sufficient, in many cases, to alleviate the distress of children caught up in regional conflicts, social unrest and natural disasters, or suffering from hunger. Admittedly, the international protection of children living in those conditions was a complicated issue. The social and legal implications of such protection should be studied carefully so that effective measures could be worked out. Her delegation was prepared to exchange views with other delegations on that subject.

25. With regard to the implementation of the Convention against Torture, China recalled that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment was an important aspect of the promotion and protection of human rights. Under the Convention, States parties were required to adopt domestic measures to prevent and prohibit torture. Such a prohibition applied not only to the positive law of each State, namely, constitutional and criminal law, but also to criminal procedure and the judicial system. States parties should amend or supplement their national legislation, as appropriate.

26. China had ratified the Convention against Torture in 1988. Torture was expressly prohibited by Chinese law. More than 10 offences which violated the provisions of the Convention were prohibited under the criminal law of her country, including unlawful detention, unlawful deprivation of liberty and the use of torture to extract confessions. In addition, the code of criminal procedure, judicial procedure and the laws relating to prison administration and rehabilitation through work contained provisions prohibiting the judiciary and police from resorting to torture. In accordance with the Constitution, the National People's Congress had recently adopted Compensation Act, which provided further guarantees of civil rights.

27. China, honouring its commitments under the Convention against Torture, had submitted its initial report in 1989 and a supplementary report in 1992. The Committee against Torture had examined the report in April of the current year and expressed its satisfaction with the legislative, judicial and administrative

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measures that the Chinese Government had taken in connection with the prevention and prohibition of torture. China had provided detailed explanations in reply to the questions raised by the experts.

28. Her delegation had noted that both the funds and the staff of the Committee against Torture were inadequate to meet the Committee's increasing workload. It was crucial that the United Nations should resolve that problem properly. Her delegation favoured the allocation of funds from the regular budget of the United Nations to cover the operating costs of the Convention-monitoring body and supported the related amendment of the Convention.

29. China considered that the eradication of practices prohibited by the Convention required unremitting efforts by the international community as a whole. China was willing to collaborate with it in the effort to prevent and prohibit torture, further developing its own legal system and ensuring strict enforcement of the law.

30. Ms. VILFAN (Slovenia) said that her country attached the greatest importance to the protection of human rights and fundamental freedoms, which went hand in hand with democracy, peace, security and development, and she paid homage to the United Nations for the invaluable support it had always given for the realization of those ideals.

31. The World Conference on Human Rights, recently held in Vienna, had arrived at the conclusion that the universal acceptance and implementation of the international instruments on human rights and the related protocols concluded within the framework of the United Nations system constituted one of the Organization's priorities and should therefore be strongly encouraged and facilitated.

32. The conviction of the Republic of Slovenia was such that it had become a party to five of the seven United Nations treaties on human rights upon notification of its succession, which had taken effect on the day of its independence, 25 June 1991. As in the case of other multilateral treaties concluded within the framework of the United Nations system, Slovenia had without delay assured complete continuity of the application of the legal regime of those instruments. It believed that adherence of the successor States to the human rights instruments to which the predecessor States had been parties was an important guarantee of a peaceful transition to democracy and a market economy.

33. During the previous two years, Slovenia had become a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and had ratified the Optional Protocol to the International Covenant on Civil and Political Rights. It had signed the Second Optional Protocol relating to the abolition of the death penalty and expected to ratify it before the end of the current year.

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34. The fact that Slovenia had recently joined the Council of Europe showed its respect for the principles of democracy, the rule of law and the protection of human rights. It had not hesitated to sign the European Convention on Human Rights and the related Protocol.

35. The country was currently bringing its legislation into line with constitutional provisions and universal and regional standards, a task that should be completed by the end of the following year; moreover, ratified international treaties having binding force had direct effects on Slovene national law.

36. Her delegation, while noting with satisfaction the increase in the number of States acceding to the various human rights treaties, regretted that there had not yet been sufficiently widespread acceptance of some instruments, especially those providing for individual complaint procedures. Inasmuch as reservations might be incompatible with the objective of a treaty, the Slovene delegation strongly supported recommendations made by the General Assembly and the Commission on Human Rights that States should periodically review their reservations to ascertain whether they ought to be maintained.

37. Slovenia hoped that States that had not yet acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights would do so soon, for it believed that the right to life and human dignity was inviolable and must not be infringed upon by anyone, whether an individual or an authority. Human dignity consisted in the capacity to forgive. In Slovenia, the last case of capital punishment had been in 1957 and the death penalty had been abolished by a constitutional amendment passed in 1989 and by the new Constitution of 1991. In addition to the Second Protocol, already mentioned, Slovenia had signed the Sixth Protocol to the European Convention on Human Rights, concerning the abolition of the death penalty, a measure favoured by most of the States members of the Council of Europe. Her delegation thought that in future, greater efforts should be made within the United Nations to promote the abolition of capital punishment throughout the world.

38. The promotion and protection of human rights would be bereft of meaning unless the States parties to the human rights treaties submitted periodic reports to enable treaty-monitoring bodies to ascertain how States were discharging their obligations. The reports established by those bodies showed a favourable tendency to provide follow-up on the examination of reports from States parties, including the drafting suggestions and recommendations concerning legislative and other measures that those States might adopt for more effective implementation of the instrument in question. Her delegation welcomed the development of early-warning and emergency procedures for reducing the risk of gross and massive human rights violations and threats to international peace.

39. The World Conference on Human Rights had given utterance to the need for further improvement in the procedures followed by the United Nations in the field of human rights. The whole system of related instruments rested on the principle of the universality, indivisibility and interdependence of human rights. In the absence of an international supervisory body, the various United

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Nations bodies should adopt an even more concerted approach. In that connection, the proposal made a few days earlier by the Italian delegation that an international court on human rights should be set up deserved serious attention.

40. Her delegation also called for more comprehensive action in respect of the exercise of economic, social and cultural rights, the promotion and protection of the rights of persons belonging to national, ethnic, linguistic and religious minorities and the improvement of the situation of women, children and other vulnerable individuals and groups. The Vienna Declaration had also accorded major importance to improved reporting on problems related to the exercise of human rights. A methodology must be elaborated for countries and both administrative support and the system of collection and elaboration of information must be improved with a view to the creation of a unified database system. That would require the enhancement of the level and volume of expertise within the Centre for Human Rights. Her delegation strongly supported the pertinent recommendations made at the World Conference on Human Rights concerning the need for more human, financial and other resources for carrying out human rights programmes, including that of the Centre for Human Rights.

41. Member States that had accepted international treaty obligations must comply fully with them. In particular, they must submit periodic reports to international monitoring bodies in a timely manner, failure to do which constituted a violation of those obligations.

42. Some of the tasks just mentioned might be entrusted to the High Commissioner for Human Rights.

43. Mr. GARRETON (Chile) said that, since the re-establishment of democracy in his country, the question of human rights had been a major focus of its domestic and foreign policies. Accordingly, it had made great progress in reflecting the provisions of the main human rights instruments in its legislation. It had also withdrawn its reservations to some of those instruments; had acceded to the first Optional Protocol to the International Covenant on Civil and Political Rights and signed the declaration provided for under article 41 of the Covenant; and had recently acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

44. While the system of covenants and their related protocols represented considerable progress, it nevertheless contained substantial flaws. The first flaw lay in the fact that it was possible to ratify or accede to covenants and their related protocols while still expressing reservations to them. In 1992, the Chilean delegation had voiced its concerns in that respect and stated the view that the International Law Commission should give its views on the subject. Moreover, the recent World Conference on Human Rights had urged States to ensure that none of their reservations concerning international human rights instruments were incompatible with the objective and aim of the instrument in question, and to examine regularly any reservations they had expressed with a view to withdrawing them.

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45. The second flaw concerned the process of monitoring respect for the rights protected under covenants and their related protocols. That process, under which States parties were required to report periodically on the progress made in upholding the rights guaranteed under the said instruments, was the only process which could be envisaged in 1965 and 1966, the respective dates of adoption of the International Convention on the Elimination of All Forms of Discrimination and the two Covenants. Clearly, however, it had not been modified and the only means of truly improving the human rights situation was to grant everyone the right of petition recognized in the Optional Protocols, in other words, to ensure that everyone had the possibility of recourse to an international tribunal to obtain reparation for violations of fundamental rights. It was perhaps for that very same reason that States were reluctant to accede to the Optional Protocols and to instruments establishing the right of petition, and that the World Conference on Human Rights had recommended States parties to instruments established under treaties on the subject to consider agreeing to all the optional communication procedures available.

46. A serious drawback of periodic reporting was that Governments felt overwhelmed by the enormousness of the administrative task involved, which they had difficulty in fulfilling; the reports currently before the Third Committee provided sufficient proof of that. The Committee on the Elimination of Racial Discrimination, for example, stated in its report (A/48/18) that only 913 of the 1,257 initial and periodic reports due for submission by Governments had been transmitted, certain States parties having failed to submit a single report. The figures contained in the report of the Committee against Torture (A/48/44) were no more reassuring, as some countries which had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1988 or 1989 had still not submitted their initial reports, while only 11 of the 26 countries due to submit their initial reports in 1992 had done so. In that connection, he recalled that the chairmen of the bodies established under human rights instruments had stated that the failure to submit reports constituted a breach of international law.

47. The situation, however, was not merely unclear. First, the interim report on the updated study by Mr. Philip Alston (A/CONF.157/PC/62/Add.11/Rev.1) proposed solutions to the question of monitoring compliance with covenants and their protocols. Secondly, there was increasing collaboration between the various bodies established under human rights instruments, and between those bodies and the special mechanisms put in place by the Commission on Human Rights. That collaboration was vital and had been expounded by the World Conference on Human Rights in the first part of its Programme of Action. Equally important was the collaboration between those bodies and the Security Council, following the proposal made by the Secretary-General in paragraph 101 of his report on the work of the Organization (A/47/1), whose purpose was to authorize the Secretary-General and expert human rights bodies to bring massive human rights violations to the attention of the Security Council, with the appropriate recommendations.

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48. Finally, the Chilean delegation welcomed the progress made in formulating the draft optional protocol to the Convention against Torture. The elimination of torture was absolutely imperative and the international community should take all possible measures to that end; no legal, political or moral argument could justify its passivity. Chile believed that the system of visiting detention sites provided for under the draft optional protocol was in line with the Vienna Declaration and constituted an effective means of action.

49. Mrs. Rigoberta MENCHU (United Nations Goodwill Ambassador for the International Year of the World's Indigenous People and Nobel Prize Laureate) thanked the organizations which protected indigenous people and the community leaders who had helped her to accomplish her mission throughout 1993, particularly those Governments and institutions which had kept her informed of policies followed with regard to indigenous people, such as sectarian authorities and human rights organizations which had lent their financial support. The problem of resources was important in that respect; owing to the lack of any specific financing, the International Year of the World's Indigenous People had been forced to contend with various difficulties and restrictions.

50. Time constraints made it impossible for her to give details of the numerous consultations undertaken during the course of the year. However, she specified three themes of vital importance for indigenous people, namely the International Year of the World's Indigenous People, the problem of monitoring respect for human rights and the proclamation of the international decade of the world's indigenous people.

51. Far from improving, the situation concerning violations of the rights of indigenous people had in some respects grown worse. Indigenous people were still divested of their ancestral lands. They were inadequately recognized and protected by law; in most cases, there was still no legislation which established more just and egalitarian relations between the State and its indigenous people. The deterioration of the environment, the abuse of natural resources belonging to those people, the persecution suffered by community leaders, the ill treatment of women and racism were all on the increase, not to mention the serious massacres which had perturbed the international community.

52. She added that the external debt burden and the implementation of structural adjustment policies had disastrous effects on the health, employment, education and living conditions of indigenous people, who were the most affected of all the social groups.

53. Despite a certain lack of commitment and true action, the International Year of the World's Indigenous People had made the national and international public aware of the existence of indigenous people and of their historic rights, as demonstrated by the displays of solidarity expressed in various parts of the world, the attention given by the international press to such people and the open-minded spirit with which the United Nations was tackling the problem.

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54. Although some Governments had made an effort to establish new relations with their indigenous populations at the national level, others had unfortunately regressed. In addition, age-old prejudices and fears jeopardized any thorough attempt to understand the social and political aspects of indigenous peoples' struggle for their dignity, identity and inalienable rights. For example, the right to self-determination continued to raise problems, despite the fact that the World Conference on Human Rights had recognized that the denial of the right of self-determination was a violation of human rights and had underlined the importance of the effective realization of that right. In any event, self-determination as understood by indigenous peoples held no danger for national unity and was in no way incompatible with the principles of the Charter of the United Nations. On the contrary, the goal was to establish harmonious and peaceful relations among all peoples and cultures on the planet, while respecting the special features of each group.

55. She wished to make it clear that the situation of indigenous peoples was distinct from that of ethnic or religious minorities and invited the United Nations community to establish specific instruments and mechanisms recognizing the status of indigenous populations and guaranteeing their fundamental rights, one such instrument being the draft declaration of principles on the rights of indigenous populations. She also invited all countries to support the Working Group on Indigenous Populations and emphasized that it was essential for representatives of indigenous populations to take part in the Group's work as independent experts. She stressed that the instruments governing relations between indigenous populations and the former colonial Powers must be fully respected if better cooperation between them was to be attained. She asked the members of the Third Committee to adopt the proposal on the international decade of the world's indigenous populations, which would make it possible to consolidate the progress made at both the country level and in the United Nations system, find solutions for the age-old problems of the indigenous populations, reaffirm their rights and guarantee the sound functioning of their political, social, economic and cultural institutions.

56. However, to avoid the decade becoming a mere symbolic act, it was crucial to plan for a year of preparation, in order to define a platform for action and collect a sufficient amount of resources, especially by appealing to Governments' generosity. For her part, she pledged to campaign to publicize the goals of the decade extensively and to participate fully in the activities conducted.

57. She could not conclude without referring to the situation in Guatemala, which had not improved, especially in the human rights area. Although she had been awarded the Nobel Prize, and despite the struggle against dictatorship and the trust placed in the President of the Republic, former attorney for human rights, the Guatemalan people continued to be subjected to repression, oppression, discrimination and exploitation. Death, torture, enforced disappearances, forced recruitment of thousands of young Mayas into the army and the continuation of the self-defence patrols still afflicted the country, to which peace had not yet come. She noted that the General Assembly had not concerned itself with the Guatemalan people since 1986, despite the serious

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human rights violations reported. She therefore appealed to the parties in conflict to resume dialogue and negotiation with a view to a political settlement of the conflict.

58. Stressing the role of the Mayan people in the struggle for life, dignity and peace, she called for a redoubling of efforts towards a future of peace for all the peoples of the world, whether indigenous or not.

AGENDA ITEM 110: CRIME PREVENTION AND CRIMINAL JUSTICE (continued)
(A/C.3/48/L.9/Rev.2)

59. The CHAIRMAN said that Australia, Guyana, Israel and Paraguay should be added to the list of sponsors of the draft resolution, which had no programme budget implications, and that the French text of the ninth preambular paragraph of the draft would be brought into line with the English text, at the request of Morocco.

60. Mr. FERNANDEZ PALACIOS (Cuba) said that the original version of the draft resolution had not taken into account all aspects of the question of prevention of alien smuggling but that the text now being presented to the Committee for adoption was much more thorough and coherent. It was certainly not perfect or complete - it did not take all of Cuba's concerns into account, for example - but it was much more complex and, for that reason, accepted by a greater number of countries. He thanked the sponsors of the draft for their willingness to engage in a dialogue and welcomed the spirit of understanding and compromise that had prevailed while it was being prepared.

61. Mrs. ESPINOSA (Mexico) requested that the expression "alien smuggling" should be rendered in Spanish by the expression "tráfico indocumentado" throughout the draft.

62. Mrs. RAMIREZ (Panama) said that her delegation joined the consensus on the draft resolution, despite the fact that it did not agree with the eighth and tenth preambular paragraphs. The Panamanian Government felt that it alone should establish regulations for its merchant marine, and as far as alien smuggling was concerned, it intended to respect the relevant clauses of the conventions to which it was a party.

63. Mrs. CASTRO de BARISH (Costa Rica) congratulated the United States and Cuban delegations for the cooperation they had shown when preparing the draft, as well as the other delegations concerned, and said that Costa Rica wished to become a sponsor.

64. Draft resolution A/C.3/48/L.9/Rev.2 was adopted without a vote.

65. The CHAIRMAN thanked the United States and Cuban delegations for their positive approach in preparing the draft.

66. Mr. SYLVESTER (Belize) expressed appreciation for the efforts that had led to the preparation of the draft and for the consensus achieved. Belize fully shared the concerns expressed by many delegations regarding alien smuggling and had already clearly shown, in its bilateral relations with some of the sponsors of the draft, that it was firmly resolved to eliminate it. However, his delegation questioned the reference to national law in paragraphs 1 and 10 of the draft. It would have been preferable to condemn the practice of alien smuggling in the name of the principles of international law or the general principles of law. As drafted, paragraphs 1 and 10 might encourage States to adopt Draconian measures and thus punish individuals whom the general principles of law did not consider responsible. Furthermore, his delegation felt that paragraph 1 would have been much stronger if the phrase following the words "international and national law" had been placed in another paragraph.

67. Mrs. HORIUCHI (Japan) said that the draft drew the Committee's attention to a practice that dealt serious harm to States anxious to control immigration. It should therefore be borne in mind that the laws were violated not only by the aliens smuggled into countries, but also by those who allowed them to be smuggled into a country other than their own. Her delegation believed that all Member States should work towards ending clandestine immigration.

68. Mr. JAAFARI (Syrian Arab Republic) said he was pleased that a consensus had been reached regarding that text. His delegation wished, however, to point out that the expression "legal migration" used in paragraph 9 should not be used to justify equating migration with installation and the establishment of settlements, particularly in territories occupied by any Member State, and that the forced settlement of migrants in the occupied territories represented a violation of international law.

69. Mrs. LIMJUCO (Philippines) explained that, by becoming a sponsor of the draft, her country reaffirmed that it condemned alien smuggling and the inhuman practices which resulted from it, but did not condemn immigration in the true sense of the word.

70. Mrs. KABA (Côte d'Ivoire) commended the United States, Cuban and Moroccan delegations' efforts in drawing up the draft. Her delegation stressed that the struggle against clandestine immigration should not hamper legal immigration, and that it favoured a bilateral approach whenever problems of illegal immigration arose between two countries.

71. The CHAIRMAN said that the Committee had concluded its consideration of agenda item 110.

AGENDA ITEM 113: REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, QUESTIONS RELATING TO REFUGEES, RETURNEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS (continued) (A/C.3/48/L.21, L.23, L.24 and L.26-L.29)

Draft resolution A/C.3/48/L.21

72. The CHAIRMAN said that at the request of the sponsors who needed more time to put the final touches to the text, the Committee would take a decision on the draft at a later date.

Draft resolution A/C.3/48/L.23 and proposed amendments in document A/C.3/48/L.29

73. The CHAIRMAN announced that, as the parties had been able to reach an agreement, Armenia had withdrawn its amendments to draft resolution A/C.3/48/L.23. The new text would be circulated as document A/C.3/48/L.23/Rev.1, which would be introduced at the next meeting, at which time the Committee would take a decision on the draft.

Draft resolution A/C.3/48/L.24

74. The CHAIRMAN explained that draft resolution A/C.3/48/L.24, introduced by Argentina, had no programme budget implications.

75. Mrs. CASTRO de BARISH (Costa Rica) said that her country wished to join the sponsors of the draft resolution.

76. Draft resolution A/C.3/48/L.24 was adopted without a vote.

Draft resolution A/C.3/48/L.26

77. The CHAIRMAN said that the draft resolution had been introduced by Finland on behalf of the original sponsors and Afghanistan, Armenia, Belarus, Belgium, Botswana, Brazil, Chile, El Salvador, Guyana, Haiti, Malawi, Mozambique, Namibia, New Zealand, the Niger, Panama, Senegal, the former Yugoslav Republic of Macedonia, Ukraine, the United Kingdom, the United Republic of Tanzania, the United States and Yemen.

78. When introducing the draft, the representative of Finland had orally revised it by inserting, after the sixth preambular paragraph, a new paragraph with the wording: "Also noting with satisfaction the participation of the Office of the High Commissioner for Refugees in the commemoration of the anniversary of the Cartagena Declaration and the Organization of African Unity Convention on Refugees"; in the tenth preambular paragraph, before the words "of asylum procedures", the words "by individuals"; at the end of paragraph 4, the words "to eligible persons"; after paragraph 12, a new paragraph reading: "Reaffirms the importance of incorporating environmental considerations into the programmes of the Office of the High Commissioner, especially in the least developed countries, in view of the impact on the environment of the large number of refugees and displaced persons of concern to the High Commissioner".

79. The CHAIRMAN explained that the draft resolution had no programme budget implications.

80. Mr. ARCANJO DO NACIMENTO (Angola) said he wished to add the name of his country to the list of sponsors of the draft resolution.

81. Draft resolution A/C.3/48/L.26, as orally revised, was adopted without a vote.

Draft resolution A/C.3/48/L.27

82. The CHAIRMAN said that the draft resolution, introduced by El Salvador on behalf of the original sponsors and Argentina, Belize, Chile, Colombia, Cuba, Ecuador, Finland, France, Greece, Guyana, Italy, Norway, Panama, Spain, Suriname and Sweden had no programme budget implications.

83. Mrs. THOMPSON (Jamaica) said that her country wished to co-sponsor the draft resolution.

84. Draft resolution A/C.3/48/L.27 was adopted without a vote.

Draft resolution A/C.3/48/L.28

85. The CHAIRMAN recalled that, when introducing the draft resolution on behalf of the Group of African States, the representative of Algeria had orally revised it in the following way: in the fourteenth preambular paragraph, the words "mechanism of prevention, management and repatriation of refugees" should be replaced by "mechanism for conflict prevention, management and resolution"; and the last line of the seventeenth preambular paragraph should be replaced by the words "social situation of Djibouti, which is already suffering from a prolonged drought and from the repercussions of the critical situation prevailing in the Horn of Africa". The French version of the nineteenth and twenty-fifth preambular paragraphs would be brought into line with the English text. The draft resolution had no programme budget implications.

86. Draft resolution A/C.3/48/L.28, as orally revised, was adopted without a vote.

87. Mrs. WADE (United States of America) said that her delegation had not participated in the adoption of the draft resolution since it thought that, as currently constituted, the draft inappropriately described the policies and practices of the various African Governments with regard to refugees and contained outdated language. For example, the draft neither mentioned new emergency situations in Africa, such as in Burundi and Togo, nor acknowledged the markedly changed situations in Mozambique and Liberia, where repatriation had already begun, or in South Africa, where it had almost reached an end. Moreover, it did not adequately call upon leaders of refugee-producing countries to eliminate immediately the conditions which were causing refugees and displaced persons.

The meeting rose at 12.15 p.m.